IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
CIVIL REVISION APPLICATION No 276 of 2000
For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HIMMATLAL GOVINDJI DOSHI

Versus

AMARCHAND TEJASHI MEHTA

Appearance: MR PV HATHI for Petitioner Nos. 1-2
MR CH VORA for Respondent No. 1
RULE SERVED for Respondent No. 2-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 21/11/2002

ORAL JUDGEMENT

The petitioners are the original defendants, being Defendants 1 and 4 of Civil Suit No.3 of 1997, which is pending in the Court of Civil Judge (J.D.), Bachau. Respondent No.1 herein is the original plaintiff of that suit. The said suit has been filed by the plaintiff for getting decree for possession on various grounds.

In the aforesaid suit, at an interim stage, an application was submitted on behalf of the petitioners at Exhibit 77 for framing additional issues, as suggested by them in their application. The trial Judge, by the impugned order, came to the conclusion that it is not necessary to frame additional issue as suggested by the

parties as it was found that the suit is instituted as a rent suit and the Court has jurisdiction to decide such suit. The said order of the trial court is impugned in this revision at the instance of the petitioners.

Considering the nature of the order, in my view, it is purely an interlocutory order and such order cannot be interfered with by this Court in its limited jurisdiction under Section 115 of the CPC. It cannot be said that the order of the trial court is without jurisdiction or that the trial court has committed any jurisdictional error in passing the impugned order. This Revision Application is not entertained as having been filed at an interlocutory stage. The Revision stands dismissed accordingly. Rule is discharged. Interim relief, if any, shall stand vacated. No costs.

However, it is clarified that it is open for the petitioners to raise such point if any appeal against the order of the trial court is filed in future. It is clarified that it is always open for the petitioners to raise whatever contentions available in law at the time of trial or even at the appropriate appellate stage.

Writ to be sent to the trial court forthwith.

21st November, 2002 (P.B. Majmudar, J.)

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(apj)